

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DEANTHONY BROWN,

Case No. 2:19-cv-01409-RFB-VCF

Petitioner,

v.

ORDER

BRIAN WILLIAMS, et al.,

Respondents.

Petitioner Deanthony Brown, a Nevada state prisoner, has submitted a *pro se* Petition for Writ of Habeas Corpus (ECF No. 1-1) pursuant to 28 U.S.C. § 2254. This habeas matter is before the Court due to Brown's failure to comply with previous orders.¹

In August 2019, Brown mailed or handed to a prison official for the purpose of mailing, the federal petition initiating this case. (ECF No. 1-1 at 18.) However, he did not pay the standard \$5.00 filing fee or submit an application for leave to proceed *in forma pauperis* ("IFP") with the appropriate supporting documentation. (ECF No. 3.) The Court therefore ordered Petitioner to submit an IFP application by September 19, 2019. (*Id.*) Brown took no action.

In early October 2019, the Court gave Brown one more opportunity to comply with its previous order and warned him that a failure to do so would result in the dismissal of his petition without prejudice and without further advance notice. (ECF No. 4.)

Brown submitted an IFP application on October 28, 2019. (ECF No. 5.) However, the supporting documents showed he has the financial means to pay the \$5.00 filing fee. Thus, the Court found that Brown does not qualify for a fee waiver, denied his IFP application, and ordered him to pay the filing fee by February 24, 2020. (ECF No. 6.) In addition, the Court ordered Brown

¹ The background and procedural history of Petitioner's state criminal case is described in the Court's January 8, 2020 Order (ECF No. 6).

1 to show cause why his petition should not be dismissed with prejudice as time-barred under 28
2 U.S.C. § 2244(d).

3 To date, Brown has not filed a response to the order to show cause, resolved the filing fee,
4 or taken any other action to prosecute this case.

5 **IT IS THEREFORE ORDERED:**

6 1. Petitioner Deanthony Brown's Petition for Writ of Habeas Corpus (ECF No. 1-1) is
7 **DISMISSED WITHOUT PREJUDICE** based on his failure to comply with the
8 Court's order (ECF No. 6), show cause why the petition should not be dismissed as
9 untimely, and resolve the filing fee.

10 2. A certificate of appealability is DENIED as jurists of reason would not find the Court's
11 dismissal to be debatable or wrong.

12 3. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Clerk of Court will
13 add Nevada Attorney General Aaron D. Ford as counsel for Respondents and
14 informally serve the Nevada Attorney General by directing a notice of electronic filing
15 of this order to his office. No response is required from Respondents other than to
16 respond to any orders of a reviewing court.

17 4. The Clerk of Court is instructed to enter final judgment accordingly and close this case.

18 DATED: December 2, 2020.

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22 RICHARD F. BOULWARE, II
23 UNITED STATES DISTRICT JUDGE
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